

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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TYRONE NOEL NUNN,

Plaintiff,

v.

STATE OF NEVADA, *et al.*,

Defendants.

Case No. 2:24-cv-01239-GMN-EJY

DISMISSAL ORDER

Plaintiff Tyrone Nunn (“Plaintiff”) brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at High Desert State Prison. (ECF No. 6 at 1.) On January 23, 2025, this Court ordered Plaintiff to file an amended complaint by February 23, 2025. (ECF No. 5 at 7.) The Court warned Plaintiff that the action could be dismissed if he failed to file an amended complaint by that deadline. (*Id.*) That deadline expired and Plaintiff did not file an amended complaint, move for an extension, or otherwise respond.

I. DISCUSSION

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. *See Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to

1 dismiss an action on one of these grounds, the Court must consider: (1) the public's
2 interest in expeditious resolution of litigation; (2) the Court's need to manage its docket;
3 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
4 cases on their merits; and (5) the availability of less drastic alternatives. *See In re*
5 *Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting
6 *Malone*, 833 F.2d at 130).

7 The first two factors, the public's interest in expeditiously resolving this litigation
8 and the Court's interest in managing its docket, weigh in favor of dismissal of Plaintiff's
9 claims. The third factor, risk of prejudice to defendants, also weighs in favor of dismissal
10 because a presumption of injury arises from the occurrence of unreasonable delay in filing
11 a pleading ordered by the court or prosecuting an action. *See Anderson v. Air West*, 542
12 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring disposition of
13 cases on their merits—is greatly outweighed by the factors favoring dismissal.

14 The fifth factor requires the Court to consider whether less drastic alternatives can
15 be used to correct the party's failure that brought about the Court's need to consider
16 dismissal. *See Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining
17 that considering less drastic alternatives *before* the party has disobeyed a court order
18 does not satisfy this factor); *accord Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th
19 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that
20 “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the court's
21 order as satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled
22 with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*).
23 Courts “need not exhaust every sanction short of dismissal before finally dismissing a
24 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779
25 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed until and
26 unless Plaintiff files an amended complaint, the only alternative is to enter a second order
27 setting another deadline. But the reality of repeating an ignored order is that it often only
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1 delays the inevitable and squanders the Court's finite resources. The circumstances here
2 do not indicate that this case will be an exception: there is no hint that Plaintiff needs
3 additional time or evidence that he did not receive the Court's screening order. Setting
4 another deadline is not a meaningful alternative given these circumstances. So the fifth
5 factor favors dismissal.

6 **II. CONCLUSION**

7 Having thoroughly considered these dismissal factors, the Court finds that they
8 weigh in favor of dismissal. It is therefore ordered that this action is dismissed without
9 prejudice based on Plaintiff's failure to file an amended complaint in compliance with this
10 Court's January 23, 2025, order and for failure to state a claim. The Clerk of Court is
11 kindly directed to enter judgment accordingly and close this case. No other documents
12 may be filed in this now-closed case. If Plaintiff wishes to pursue his claims, he must file
13 a complaint in a new case.

14 It is further ordered that the application to proceed *in forma pauperis* (ECF No. 4)
15 is granted. Plaintiff shall not be required to pay an initial installment of the filing fee. Even
16 though this action is dismissed, and is otherwise unsuccessful, the full filing fee will still
17 be due, pursuant to 28 U.S.C. § 1915.

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1 It is further ordered that, under 28 U.S.C. § 1915, the NDOC will forward payments
2 from the account of **Tyrone Nunn, 1252474** to the Clerk of the United States District
3 Court, District of Nevada, 20% of the preceding month's deposits (in months that the
4 account exceeds \$10.00) until the full \$350 filing fee has been paid for this action. The
5 Clerk of the Court will send a copy of this order to the Finance Division of the Clerk's
6 Office. The Clerk will send a copy of this order to the attention of **Chief of Inmate**
7 **Services for the Nevada Department of Corrections** at formapauperis@doc.nv.gov

8 March 4, 2025

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12 Gloria M. Navarro, Judge
13 United States District Court
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